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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/658,864	09/09/2003	Roger M. Snow	PA0912.ap.US	5191

75035 7590 06/07/2011  
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EXAMINER
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LAYNO, BENJAMIN

ART UNIT	PAPER NUMBER
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3711

MAIL DATE	DELIVERY MODE
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06/07/2011

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

RECORD OF ORAL HEARING

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

*Ex Parte* ROGER M. SNOW

Appeal 2009-009758  
Application 10/658,864  
Technology Center 3700

Oral Hearing Held: Thursday, February 10, 2011

Before WILLIAM F. PATE, III, STEFAN STAICOVICI and FRED A.  
SILVERBERG, Administrative Patent Judges

ON BEHALF OF THE APPELLANT:

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1                   *The above entitled matter came on for oral hearing on*  
2                   *Thursday, February 10, 2011, commencing at 9:00 a.m., at the U.S. Patent*  
3                   *and Trademark Office, 600 Dulany Street, Alexandria, Virginia, before Lori*  
4                   *Allen, Notary Public.*

5

6                   JUDGE PATE: Good morning, Mr. Litman.

7                   MR. LITMAN: Good morning, Your Honor. How are you  
8 today?

9                   JUDGE PATE: We're good. Thank you. We have had a  
10 chance to look at this case beforehand, we think we are up to speed on the  
11 technology, and we'd like to hear your arguments concerning patentability.

12                  MR. LITMAN: Very good. May it please the Court, the  
13 technology here is a variation in the wagering capability and the method of  
14 playing a casino table card game.

15                  The critical element in this claim that distinguishes over the  
16 prior art is the fact that the player gets a player hand. A bonus hand is also  
17 dealt that is available to the player. The player places a side bet bonus  
18 wager. That bonus wager action is independent of the underlying play of the  
19 game.

20                  The side bet wager functions as follows: if the player's hand  
21 has at least a predetermined rank, he immediately wins a bonus amount.  
22 Having won that bonus amount, the bonus hand is then revealed, and if that  
23 bonus hand also exceeds a second independent predetermined amount, the  
24 first bonus amount won on the bonus bet by the player is increased.

1           The player first has to win a bonus, but if he wins a bonus, he's  
2     guaranteed that initial bonus on the bonus bet, and then he has the  
3     opportunity of having that bonus increased on the bonus bet if the bonus  
4     hand is also larger.

5           Burnelle teaches a game in which first there is an underlying  
6     game between the player and the dealer. He can win or lose, doesn't matter.  
7     He can also qualify for a bonus event, but he does not win any bonus amount  
8     on the bonus bet in that initial play with the player hand.

9           Therefore, Burnelle is missing a functional first step in the  
10    claims that are recited here on appeal, winning the first bonus amount. That  
11    is important because then he cannot possibly increase the bonus amount  
12    because he does not have a bonus amount won on the initial cards.

13          The Examiner then cites Burnelle is also not a poker game, and  
14    once he qualifies, then he can win an amount on the bonus bet in the bonus  
15    hand.

16          Jones shows a game in which you place a bonus bet on your  
17    poker hand. You either win the bonus or don't win the bonus. There is no  
18    additional bonus, no modification of that bonus bet with a subsequent hand.

19          There is a genuine functional difference here in that neither  
20    reference shows two actions on a single bonus bet ignoring the underlying  
21    game. There is no reason to add from the teachings in the art or knowledge  
22    in the art two distinct bonus events occur based on a single bonus bet.

23          There is absolutely nothing that would give instruction or  
24    reason or obviousness to adding multiple events to the single bet when it's

1 not known in the art, there is no exemplification leading to that.

2           The fundamental combination of the Examiner fails to provide  
3 any basis for finding obviousness and adding two bonus steps to a single  
4 bonus event wherein if the player wins the initial bonus, he's guaranteed that  
5 bonus, and the only thing that can happen after that is if the bonus hand is  
6 also a quality hand, increasing that initial bonus.

7           That is the fundamental underlying basis for obviousness in this  
8 case. The two references are diverse in what they are doing, and even if you  
9 combine them, there is nothing in the combination of the teachings that  
10 would lead one of ordinary skill in the art to deal a player one hand for play  
11 against an underlying game, and then have a bonus hand available wherein a  
12 bonus bet has an effect both on the player hand initially winning a bonus and  
13 possibly an enhanced bonus, if the bonus hand is also larger.

14           There is no combination of elements in the reference that could  
15 possibly be used to lead to that method step.

16           JUDGE PATE: I think I understand your argument. Do you  
17 have any questions, Judge Silverberg, Judge Staicovici?

18           (No response.)

19           JUDGE PATE: Okay. I don't think we have any more  
20 questions for you. We are going to take this case under advisement.

21           MR. LITMAN: Very good. Thank you very much.

22           JUDGE PATE: Thank you, sir.

23           (Whereupon, at 9:05 a.m., the proceedings were concluded.)

24                                   \* \* \* \* \*